

STATE OF MONTANA COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES	REF: SD-8
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PROGRAM/SUBJECT: School Districts - Miscellaneous	

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

ANNUAL FINANCIAL REPORT FILING

1. Compliance Requirement:

- The trustees' annual fiscal report must be submitted to the county superintendent no later than August 15 following the end of the fiscal year (September 1 for joint school districts). (MCA 20-9-213(6))

Suggested Audit Procedure:

- Determine if the trustees' annual report was submitted to the county superintendent by August 15, or by September 1 if a joint school district.

RECORDS RETENTION & DISPOSITION

(Note: For more information on records retention schedules and records disposal procedures, go to: http://sos.mt.gov/RMB/Disposing_Records.asp#local)

2. Compliance Requirements:

- Any claim, warrant, voucher, bond, or treasurer's general receipt may be destroyed by any county or school district officer after a period of 5 years. (MCA 20-9-215)

(Note: The local government records committee provided for in Title 2, Chapter 6, Part 4, MCA, has established retention and disposition schedules for certain categories of records. Although not specifically stated in 20-9-215, it appears that a school district may only destroy records according to these schedules, and then only upon written approval of the local government records subcommittee, as discussed below.)

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

RECORDS RETENTION & DISPOSITION – continued:

2. Compliance Requirements - continued:

- Upon the order of the board of trustees, a school officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and, with written approval of the local government records destruction subcommittee provided for in MCA 2-6-403, any records not referenced in the retention and disposition schedule that are no longer needed by the office. Student records must be permanently kept, and employment records must be kept for 10 years after termination. (MCA 20-1-212) (**Note:** Although not clearly stated in this section, it appears that the local government must complete a “Request and Authorization for Records Disposal or Destruction” form and receive written authorization prior to the disposal of any public records.)
- No local government public record more than 10 years old may be destroyed without it first being offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public. Notice must be provided to these entities at least 180 days prior to disposal of the public record. (MCA 2-6-405)
- The local government records committee, established in 2-6-402 has established procedures by which public records must be offered and claimed as discussed above. The committee maintains a central registry of the entities described above who are interested in receiving notice of the potential destruction of public records. The local government must complete a “Request and Authorization for Records Disposal or Destruction” form, from which records more than 10 years old are posted on this central registry. The 180-day period begins the day that this information is posted. If an interested party contacts the local government within the 180 days, claimed records must be given to entities in the order of priority as listed above. All expenses for the removal of claimed records must be paid by the entity claiming the records. (MCA 2-6-405)

Suggested Audit Procedures:

- If it is determined that district records were destroyed during the period under audit, determine that there was written approval from the governing body and the local government records subcommittee.
- If any records more than 10 years old were destroyed, verify that the proper procedures were followed in giving notice to interested parties, as discussed above.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

LOCAL GOVERNMENT AS AN INTERNET PROVIDER

3. Compliance Requirements:

- A political subdivision may only act as an internet services provider: (MCA 2-17-603)
 - a. if no private internet services provider is available within the jurisdiction served by the political subdivision;
 - b. if the political subdivision provided services prior to July 1, 2001 (**Note:** Lincoln County appears to be the only political subdivision that was providing internet service prior to 7/1/2001. (MACo Newsletter 10/2001)); or
 - c. when providing advanced services that are not otherwise available from a private internet services provider within the jurisdiction served by the political subdivision.

(**Note:** Nothing in MCA 2-17-603, may be construed to prohibit a political subdivision from offering electronic government services to the general public, or acquiring access to the internet from a private internet services provider in order to offer electronic government services to the general public.)
- If a private internet services provider elects to provide internet services in a jurisdiction where a political subdivision is providing internet services, the private internet services provider shall inform the political subdivision in writing at least 30 days in advance of offering internet services. Upon receiving notice the political subdivision shall notify its subscribers within 30 days of the intent of the private internet services provider to begin providing internet services and may choose to discontinue providing internet services within 180 days of the notice. (MCA 2-17-603)

Suggested Audit Procedures:

- Through a review of board minutes, other contracts and documentation, and revenue collection reports, determine if the school district is providing internet services within its jurisdiction.
- If yes, determine if there are any private internet services providers within the jurisdiction served by the school district.
- If there are, determine that the school district is only providing advanced internet services that are not otherwise available from a private internet services provider within the jurisdiction served by the school district.
- If a private internet services provider elects to provide internet services in a jurisdiction where a school district is providing internet services, determine that the private internet services provider and the school district have provided the notifications discussed above.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

UNCLAIMED PROPERTY

4. Compliance Requirement:

- Title 70 Chapter 9, Part 8, MCA pertaining to the Uniform Unclaimed Property Act provides that any property that is presumed abandoned, whether located in this or another state, is subject to the custody of the State of Montana. Property is presumed to be abandoned if it is unclaimed by the apparent owner during the time specified in MCA 70-9-803. Local governments that are holders of property presumed abandoned must make a report to the Department of Revenue and that report shall include all the elements listed in MCA 70-9-808. **Effective April 24, 2003, MCA 70-9-802(14)(b), provides that these provisions of the Uniform Unclaimed Property Act are no longer applicable to property held by a local government entity as defined by MCA 2-7-501.**

Suggested Audit Procedure:

NONE - This compliance requirement is included for information only, to address questions related to unclaimed property held by a school district.

CITIZENS' RIGHT TO KNOW:

5. Compliance Requirements:

- Every citizen has a right to inspect and take a copy of any public writings of this state.
- The following documents, however, may be withheld from public viewing:
 - (a) some library records as provided for in MCA 22-1-1103;
 - (b) some protected burial site locations as provided for in MCA 22-3-807;
 - (c) constitutionally protected records and materials (Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure, including legitimate trade secrets, as defined in 30-14-402, and matters related to individual or public safety.) (MCA 2-6-102(3));
 - (d) records pertaining to individual privacy (MCA 2-6-102(4));
 - (e) records pertaining to individual or public safety or security of public facilities if release of the information may jeopardize the safety of facility personnel, the public, or inmates of a facility (MCA 2-6-102(4));
 - (f) in cases of attachment, the clerk of the court with whom the complaint is filed must not make public the fact of the filing of the complaint or the issuing of such attachment until after the filing of return of service of attachment (MCA 27-18-111); or
 - (g) adoption papers and records (MCA 42-6-101).

(MCA 2-6-102 & 104)

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CITIZENS' RIGHT TO KNOW - continued:

Suggested Audit Procedures:

- Inquire of management, and other employees to determine if the school district has a policy established which addresses the citizens' right to know.
- If not, inquire of same individuals as to what records a citizen could review and copy if so requested.
- Through observation during the course of the engagement, determine if any citizen requested information from the school district and received access to those records.

SCHOOL FUNDRAISERS (Bingo, Split Pot {50-50}, Raffles, etc)

6. Compliance Requirements:

- A permit must be issued by the board of county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle may be conducted. (MCA 23-5-413)
- If tickets for a raffle are to be sold in more than one county, a permit must be obtained only in the county where the winners of the raffle are to be determined. (MCA 23-5-413)
- A person who has conducted a raffle must submit an accounting to the board of county commissioners within 30 days following the completion of the raffle. (MCA 23-5-413)
- The value of a prize awarded for an individual ticket for a raffle conducted by a person or an organization may not exceed \$5,000. The prize may be in the form of cash, other intangible personal property, tangible personal property, or real property. Prizes may not be combined in any manner to increase the ultimate value of the prize awarded for each ticket. (MCA 23-5-413)

(Note: The Gambling Control Division of the Montana Department of Justice issued a memo to OPI to remind everyone that all gambling activities must be authorized by the legislature. Below is element from the memo:

If players have to pay to play bingo, it is a form of gambling that requires a license or permit from the State. Generally, the only places bingo can be played for money is a casino, bar or senior citizens center. If the bingo is for entertainment and no money is

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

SCHOOL FUNDRAISERS (Bingo, Split Pot {50-50}, Raffles, etc) – continued:

6. Compliance Requirements - continued:

paid to play, the game is considered a promotional game and can be conducted without a permit or a license. If a group wants to have a one time fundraiser, they can apply for a “Casino Night” permit from the Gambling Control Division. This permit allows the sponsor to conduct an event including raffles, bingo, live keno and card games (not card tournaments) for prizes. Application forms and more information on Casino nights can be found at: <http://doj.mt.gov/gaming/forms/11.pdf>.

The split the pot (50-50) drawings are a form of raffle and are subject to state law. Raffles are regulated by counties and most nonprofit school related groups are exempt from many of the requirements. While County requirements vary around the state, everyone is required to submit an accounting for a raffle within 30 days after the drawing.)

Suggested Audit Procedures:

- Inquire of management and other employees to determine if the school district had any fund raising activity during the year. If so, verify that the District first obtained authorization for the gaming activity from the County, and submitted an accounting to the County, as required.